

REMARKS

In the Office Action mailed March 7, 2008 the Office noted that claims 1-11 were pending and rejected claims 1-11. Claims 1-11 have been amended, claim 2 has been canceled, claim 12 has been added, and, thus, in view of the foregoing claims 1 and 3-12 remain pending for reconsideration which is requested. No new matter has been added. The Office's rejections are traversed below.

REJECTIONS under 35 U.S.C. § 112

Claims 4-6, 10 and 11 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In particular, the Office draws the Applicant's attention to several antecedent basis issues in the claims. Further, that a type and vague term are also found in the claims.

The Applicant has amended the claims to more fully comply with the requirements of 35 U.S.C. § 112, second paragraph.

Withdrawal of the rejections is respectfully requested.

REJECTIONS under 35 U.S.C. § 102

Claims 1, 7 and 8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Brandenburg, U.S. Patent No. 4,038,425. The Applicant respectfully disagrees and traverses the rejection with an argument and amendment.

Brandenburg discusses a small compartment that holds

kernels and fat and a larger compartment that expands to hold popped kernels. The means for opening of closing of Brandenburg is formed from a flexible sheet material having longitudinally extending folds or gussets which allow the package to extend. The arrangement of such a feature complicates the mode of production and increases the cost of manufacturing.

On page 3 of the Office Action, it is asserted that Brandenburg discloses the features of claim 1.

However, Brandenburg does not disclose "a compensating zone(16) that can take up at least two positions, one folded and the other unfolded, the compensating zone comprising four faces, two retractable faces (26) opposite two stiffening faces (28), whereby retractable faces (26) each comprise a fold (30) that is approximately in the middle of each of these faces and parallel to the base and whereby stiffening faces (28) each comprise a first fold(32), placed in the median plane, and diagonal folds (36)," as in amended claim 1. Support for the amendment can be found, for example, in cancelled claim 2.

Further, Brandenburg fails to disclose "means (20) for opening and closing a container by expanding the compensating zone; and a rigid base (14) of a limited height in order to delimit a restricted space in which are stored the corn kernels when the compensating zone is in the folded position, wherein said base (14), said compensating zone (16) and said means (20) for opening and closing are made of one piece of material with a

certain rigidity in the manner of a cardboard material," as in amended claim 1. Support for said amendment can be found, for example, in Figs. 3, 4 and 5, and the supporting text of the Specification, page 4, line 23 through page 5, line 1, page 8, lines 16-18 and Fig. 2 of the Specification. The Applicant submits that no new matter has been added by the amendment of claim 1. Further, the Applicant submits that no new matter has been added by the amendment of claim 1.

For at least the reasons stated above, Brandenburg does not anticipate claim 1 and the claims dependent therefrom.

Claims 1, 7 and 8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Suzuki, JP-291367. The Applicant respectfully disagrees and traverses the rejection with an argument and amendment.

Suzuki discusses a tube to surround a pocket, wherein the tube has gussets to allow the diameter of the tube to increase to fit the volume of the pocket.

On page 3 of the Office Action, it is asserted that Suzuki discloses the features of claim 1.

However, Suzuki does not disclose "a compensating zone(16) that can take up at least two positions, one folded and the other unfolded, the compensating zone comprising four faces, two retractable faces (26) opposite two stiffening faces (28), whereby retractable faces (26) each comprise a fold (30) that is approximately in the middle of each of these faces and parallel

to the base and whereby stiffening faces (28) each comprise a first fold(32), placed in the median plane, and diagonal folds (36)," as in amended claim 1.

Further, Suzuki does not disclose "means (20) for opening and closing a container by expanding the compensating zone; and a rigid base (14) of limited height in order to delimit a restricted space in which are stored the corn kernels when the compensating zone is in the folded position, wherein said base (14), said compensating zone (16) and said means (20) for opening and closing are made of one piece of material with a certain rigidity in the manner of a cardboard material," as in amended claim 1.

For at least the reasons discussed above, Suzuki does not anticipate claim 1 or the claims dependent therefrom.

Withdrawal of the rejections is respectfully requested.

REJECTIONS under 35 U.S.C. § 103

Claims 2-6 stand rejected under 35 U.S.C. § 103(a) as being obvious over Brandenburg or Suzuki in view of Mefford, U.S. Patent No. 2,791,367. The Applicants respectfully disagree and traverse the rejection with an argument.

Mefford discusses a cup with a center zone that expands to increase the size of the cup.

Mefford adds nothing to Brandenburg or Suzuki as applied against the independent claim. Therefore, for at least the reasons discussed above, Brandenburg or Suzuki and Mefford, taken separately or in combination, fail to render obvious claims

2-6.

Claims 9-11 stand rejected under 35 U.S.C. § 103(a) as being obvious over Brandenburg or Suzuki in view of Watkins, U.S. Patent No. 5,907,107. The Applicants respectfully disagree and traverse the rejection with an argument.

Watkins discusses a bowl with an expandable cover for popping pop-corn.

Watkins adds nothing to Brandenburg or Suzuki as applied against the independent claim. Therefore, for at least the reasons discussed above, Brandenburg or Suzuki and Mefford, taken separately or in combination, fail to render obvious claims 9-11.

Withdrawal of the rejections is respectfully requested.

NEW CLAIM

Claim 12 is new. Support for claims 12 may be found, for example, in Fig. 1 and pages 5, lines 2 and 3 of the Specification. The Applicant submits that no new matter has been added by the inclusion of claim 12. The prior art fails to disclose the rigid base of a limited height is one to two centimeters in height.

SUMMARY

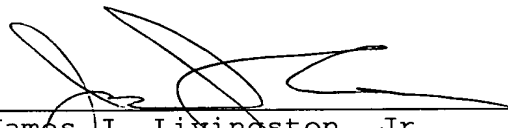
It is submitted that the claims satisfy the requirements of 35 U.S.C. §§ 112, 102 and 103. It is also submitted that claims 1 and 3-12 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a

condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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